

with the requirements of and within the time limits specified by the treaty and the Regulations. Such review may result in a determination that such application be considered as pending in the national stage.

(b) The review under subsection (a) of this section, subject to the same requirements and conditions, may also be requested in those instances where an international application designating the United States is considered withdrawn due to a finding by the International Bureau under article 12(3) of the treaty.

(Added Pub. L. 94-131, § 1, Nov. 14, 1975, 89 Stat. 687; amended Pub. L. 98-622, title IV, § 403(a), Nov. 8, 1984, 98 Stat. 3392; Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, § 4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-582; Pub. L. 107-273, div. C, title III, § 13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-273 made technical correction to directory language of Pub. L. 106-113. See 1999 Amendment note below.

1999—Subsec. (a). Pub. L. 106-113, as amended by Pub. L. 107-273, substituted “Director” for “Commissioner”.

1984—Subsec. (a). Pub. L. 98-622 substituted “Patent and Trademark Office” for “Patent Office”.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, § 4731] of Pub. L. 106-113, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-622 effective Nov. 8, 1984, see section 406(a) of Pub. L. 98-622, set out as a note under section 351 of this title.

§ 368. Secrecy of certain inventions; filing international applications in foreign countries

(a) International applications filed in the Patent and Trademark Office shall be subject to the provisions of chapter 17.

(b) In accordance with article 27(8) of the treaty, the filing of an international application in a country other than the United States on the invention made in this country shall be considered to constitute the filing of an application in a foreign country within the meaning of chapter 17, whether or not the United States is designated in that international application.

(c) If a license to file in a foreign country is refused or if an international application is ordered to be kept secret and a permit refused, the Patent and Trademark Office when acting as a Receiving Office, International Searching Authority, or International Preliminary Examining Authority, may not disclose the contents of such application to anyone not authorized to receive such disclosure.

(Added Pub. L. 94-131, § 1, Nov. 14, 1975, 89 Stat. 687; amended Pub. L. 98-622, title IV, § 403(a), Nov. 8, 1984, 98 Stat. 3392; Pub. L. 99-616, § 6, Nov. 6, 1986, 100 Stat. 3486; Pub. L. 112-29, § 20(j), Sept. 16, 2011, 125 Stat. 335.)

AMENDMENTS

2011—Subsecs. (a), (b). Pub. L. 112-29 struck out “of this title” after “17”.

1986—Subsec. (c). Pub. L. 99-616 substituted a comma for “or” after “Receiving Office” and “International Preliminary Examining Authority” for “both”.

1984—Subsecs. (a), (c). Pub. L. 98-622 substituted “Patent and Trademark Office” for “Patent Office”.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, see section 20(l) of Pub. L. 112-29, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-616 effective July 1, 1987, and applicable to all international applications pending before or after that date, see section 9 of Pub. L. 99-616, set out as a note under section 351 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-622 effective Nov. 8, 1984, see section 406(a) of Pub. L. 98-622, set out as a note under section 351 of this title.

CHAPTER 37—NATIONAL STAGE

Sec.

- 371. National stage: Commencement.
- 372. National stage: Requirements and procedure.
- [373. Repealed.]
- 374. Publication of international application.
- 375. Patent issued on international application: Effect.
- 376. Fees.

AMENDMENTS

2013—Pub. L. 112-274, § 1(i), Jan. 14, 2013, 126 Stat. 2457, struck out item 373 “Improper applicant”.

1999—Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, § 4507(12)], as added by Pub. L. 107-273, div. C, title III, § 13205(2)(F), Nov. 2, 2002, 116 Stat. 1903, substituted “Publication of international application” for “Publication of international application: Effect” in item 374.

§ 371. National stage: Commencement

(a) Receipt from the International Bureau of copies of international applications with any amendments to the claims, international search reports, and international preliminary examination reports including any annexes thereto may be required in the case of international applications designating or electing the United States.

(b) Subject to subsection (f) of this section, the national stage shall commence with the expiration of the applicable time limit under article 22(1) or (2), or under article 39(1)(a) of the treaty.

(c) The applicant shall file in the Patent and Trademark Office—

- (1) the national fee provided in section 41(a);
- (2) a copy of the international application, unless not required under subsection (a) of this section or already communicated by the International Bureau, and a translation into the English language of the international application, if it was filed in another language;

(3) amendments, if any, to the claims in the international application, made under article 19 of the treaty, unless such amendments have been communicated to the Patent and Trademark Office by the International Bureau, and a translation into the English language if such amendments were made in another language;

(4) an oath or declaration of the inventor (or other person authorized under chapter 11) complying with the requirements of section 115 and with regulations prescribed for oaths or declarations of applicants;

(5) a translation into the English language of any annexes to the international preliminary examination report, if such annexes were made in another language.

(d) The requirements with respect to the national fee referred to in subsection (c)(1), the translation referred to in subsection (c)(2), and the oath or declaration referred to in subsection (c)(4) of this section shall be complied with by the date of the commencement of the national stage or by such later time as may be fixed by the Director. The copy of the international application referred to in subsection (c)(2) shall be submitted by the date of the commencement of the national stage. Failure to comply with these requirements shall be regarded as abandonment of the application by the parties thereof. The payment of a surcharge may be required as a condition of accepting the national fee referred to in subsection (c)(1) or the oath or declaration referred to in subsection (c)(4) of this section if these requirements are not met by the date of the commencement of the national stage. The requirements of subsection (c)(3) of this section shall be complied with by the date of the commencement of the national stage, and failure to do so shall be regarded as a cancellation of the amendments to the claims in the international application made under article 19 of the treaty. The requirement of subsection (c)(5) shall be complied with at such time as may be fixed by the Director and failure to do so shall be regarded as cancellation of the amendments made under article 34(2)(b) of the treaty.

(e) After an international application has entered the national stage, no patent may be granted or refused thereon before the expiration of the applicable time limit under article 28 or article 41 of the treaty, except with the express consent of the applicant. The applicant may present amendments to the specification, claims and drawings of the application after the national stage has commenced.

(f) At the express request of the applicant, the national stage of processing may be commenced at any time at which the application is in order for such purpose and the applicable requirements of subsection (c) of this section have been complied with.

(Added Pub. L. 94-131, § 1, Nov. 14, 1975, 89 Stat. 688; amended Pub. L. 98-622, title IV, §§ 402(a)-(d), 403(a), Nov. 8, 1984, 98 Stat. 3391, 3392; Pub. L. 99-616, § 7, Nov. 6, 1986, 100 Stat. 3486; Pub. L. 102-204, § 5(g)(2), Dec. 10, 1991, 105 Stat. 1641; Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, § 4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-582; Pub. L. 107-273, div. C, title III, § 13206(a)(20), (b)(1)(B), Nov. 2, 2002, 116 Stat. 1905, 1906; Pub. L. 112-29, § 20(i)(5), (j), Sept. 16, 2011, 125 Stat. 335; Pub. L. 112-211, title II, § 202(b)(9), Dec. 18, 2012, 126 Stat. 1536.)

AMENDMENTS

2012—Subsec. (d). Pub. L. 112-211 struck out “, unless it be shown to the satisfaction of the Director that such failure to comply was unavoidable” after “by the parties thereof”.

2011—Subsec. (b). Pub. L. 112-29, § 20(i)(5), substituted “of the treaty.” for “of the treaty”.

Subsec. (c)(1). Pub. L. 112-29, § 20(j), struck out “of this title” after “41(a)”.

Subsec. (c)(4). Pub. L. 112-29, § 20(j), struck out “of this title” after “11” and after “115”.

2002—Subsec. (d). Pub. L. 107-273, § 13206(b)(1)(B), made technical correction to directory language of Pub. L. 106-113. See 1999 Amendment note below.

Pub. L. 107-273, § 13206(a)(20), inserted period at end.

1999—Subsec. (d). Pub. L. 106-113, as amended by Pub. L. 107-273, § 13206(b)(1)(B), substituted “Director” for “Commissioner” wherever appearing.

1991—Subsec. (c)(1). Pub. L. 102-204 substituted “provided in section 41(a) of this title” for “prescribed under section 376(a)(4) of this part”.

1986—Subsec. (a). Pub. L. 99-616, § 7(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Receipt from the International Bureau of copies of international applications with amendments to the claims, if any, and international search reports may be required in the case of all international applications designating the United States.”

Subsec. (b). Pub. L. 99-616, § 7(b), amended subsec. (b) generally, substituting “, or under article 39(1)(a) of the treaty” for “of the treaty.”

Subsec. (c)(4), (5). Pub. L. 99-616, § 7(c), (d), substituted a semicolon for a period at end of par. (4) and added par. (5).

Subsec. (d). Pub. L. 99-616, § 7(e), inserted “The requirement of subsection (c)(5) shall be complied with at such time as may be fixed by the Commissioner and failure to do so shall be regarded as cancellation of the amendments made under article 34(2)(b) of the treaty” at end.

Subsec. (e). Pub. L. 99-616, § 7(f), inserted “or article 41” after “article 28”.

1984—Subsec. (a). Pub. L. 98-622, § 402(a), substituted “may be” for “is” and struck out “, except those filed in the Patent Office” after “United States”, which amendment was executed by striking out “, except those filed in the Patent and Trademark Office” as the probable intent of Congress in view of the amendment by section 403(a) of Pub. L. 98-622. See Effective Date of 1984 Amendment note below.

Pub. L. 98-622, § 403(a), substituted “Patent and Trademark Office” for “Patent Office”.

Subsec. (b). Pub. L. 98-622 struck out “, at which time the applicant shall have complied with the applicable requirements specified in subsection (c) of this section” after “of the treaty”.

Subsec. (c). Pub. L. 98-622, § 403(a), substituted “Patent and Trademark Office” for “Patent Office” in provisions preceding par. (1) and in par. (3).

Subsec. (c)(2). Pub. L. 98-622, § 402(c)(1), (2), substituted “communicated by” for “received from” and struck out “verified” before “translation”.

Subsec. (d). Pub. L. 98-622, § 402(d), substituted provisions setting forth time periods for compliance with the requirements of subsec. (c), payments of surcharges, and the effect of failure to comply for provisions related only to the effect of failure to comply with the requirements of subsec. (c).

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-211 effective on the date that is 1 year after Dec. 18, 2012, applicable to patents issued before, on, or after that effective date and patent applications pending on or filed after that effective date, and not effective with respect to patents in litigation commenced before that effective date, see section 203 of Pub. L. 112-211, set out as an Effective Date note under section 27 of this title.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, see section 20(l) of Pub. L. 112-29, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, § 4731]

of Pub. L. 106–113, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–616 effective July 1, 1987, and applicable to all international applications pending before or after that date, see section 9 of Pub. L. 99–616, set out as a note under section 351 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 402(a)–(d) of Pub. L. 98–622 effective six months after Nov. 8, 1984, see section 406(b) of Pub. L. 98–622, set out as a note under section 3 of this title.

Amendment by section 403(a) of Pub. L. 98–622 effective Nov. 8, 1984, see section 406(a) of Pub. L. 98–622, set out as a note under section 351 of this title.

EFFECTIVE DATE

Chapter effective Jan. 24, 1978, and applicable to international and national applications filed, on and after that date, see section 11 of Pub. L. 94–131, set out as a note under section 351 of this title.

§ 372. National stage: Requirements and procedure

(a) All questions of substance and, within the scope of the requirements of the treaty and Regulations, procedure in an international application designating the United States shall be determined as in the case of national applications regularly filed in the Patent and Trademark Office.

(b) In case of international applications designating but not originating in, the United States—

(1) the Director may cause to be reexamined questions relating to form and contents of the application in accordance with the requirements of the treaty and the Regulations;

(2) the Director may cause the question of unity of invention to be reexamined under section 121, within the scope of the requirements of the treaty and the Regulations; and

(3) the Director may require a verification of the translation of the international application or any other document pertaining to the application if the application or other document was filed in a language other than English.

(Added Pub. L. 94–131, § 1, Nov. 14, 1975, 89 Stat. 689; amended Pub. L. 98–622, title IV, §§ 402(e), (f), 403(a), Nov. 8, 1984, 98 Stat. 3392; Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, § 4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A–582; Pub. L. 107–273, div. C, title III, § 13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906; Pub. L. 112–29, § 20(j), Sept. 16, 2011, 125 Stat. 335.)

AMENDMENTS

2011—Subsec. (b)(2). Pub. L. 112–29 struck out “of this title” after “121”.

2002—Subsec. (b). Pub. L. 107–273 made technical correction to directory language of Pub. L. 106–113. See 1999 Amendment note below.

1999—Subsec. (b). Pub. L. 106–113, as amended by Pub. L. 107–273, substituted “Director” for “Commissioner” wherever appearing.

1984—Subsec. (a). Pub. L. 98–622, § 403(a), substituted “Patent and Trademark Office” for “Patent Office”.

Subsec. (b)(3). Pub. L. 98–622, § 402(e), added par. (3).

Subsec. (c). Pub. L. 98–622, § 402(f), struck out subsec. (c) which related to cancellation of claims and payment of special fees.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112–29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, see section 20(l) of Pub. L. 112–29, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, § 4731] of Pub. L. 106–113, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 402(e), (f) of Pub. L. 98–622 effective six months after Nov. 8, 1984, see section 406(b) of Pub. L. 98–622, set out as a note under section 3 of this title.

Amendment by section 403(a) of Pub. L. 98–622 effective Nov. 8, 1984, see section 406(a) of Pub. L. 98–622, set out as a note under section 351 of this title.

[§ 373. Repealed. Pub. L. 112–274, § 1(i), Jan. 14, 2013, 126 Stat. 2457]

Section, added Pub. L. 94–131, § 1, Nov. 14, 1975, 89 Stat. 689; amended Pub. L. 98–622, title IV, § 403(a), Nov. 8, 1984, 98 Stat. 3392; Pub. L. 103–465, title V, § 532(c)(5), Dec. 8, 1994, 108 Stat. 4987; Pub. L. 112–29, § 20(j), Sept. 16, 2011, 125 Stat. 335, related to improper applicant.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 14, 2013, and applicable to proceedings commenced on or after such date, see section 1(n) of Pub. L. 112–274, set out as an Effective Date of 2013 Amendment note under section 5 of this title.

§ 374. Publication of international application

The publication under the treaty defined in section 351(a), of an international application designating the United States shall be deemed a publication under section 122(b), except as provided in section 154(d).

(Added Pub. L. 94–131, § 1, Nov. 14, 1975, 89 Stat. 689; amended Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, § 4507(10)], Nov. 29, 1999, 113 Stat. 1536, 1501A–566; Pub. L. 107–273, div. C, title III, § 13205(2)(E), Nov. 2, 2002, 116 Stat. 1903; Pub. L. 112–29, §§ 3(g)(4), 20(j), Sept. 16, 2011, 125 Stat. 288, 335.)

AMENDMENTS

2011—Pub. L. 112–29, § 20(j), struck out “of this title” after “351(a)” and after “and 154(d)”.

Pub. L. 112–29, § 3(g)(4), substituted “section 154(d)” for “sections 102(e) and 154(d)”.

2002—Pub. L. 107–273 amended Pub. L. 106–113, § 1000(a)(9) [title IV, § 4507(10)], see 1999 Amendment note below. Prior to being amended by Pub. L. 107–273, Pub. L. 106–113, § 1000(a)(9) [title IV, § 4507(10)], had amended this section to read as follows: “The publication under the treaty defined in section 351(a) of this title, of an international application designating the United States shall confer the same rights and shall have the same effect under this title as an application for patent published under section 122(b), except as provided in sections 102(e) and 154(d) of this title.”

1999—Pub. L. 106–113, as amended by Pub. L. 107–273, amended section catchline and text generally. Prior to amendment, text read as follows: “The publication under the treaty of an international application shall confer no rights and shall have no effect under this title other than that of a printed publication.”

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 3(g)(4) of Pub. L. 112–29 effective upon the expiration of the 18-month period begin-

ning on Sept. 16, 2011, and applicable to certain applications for patent and any patents issuing thereon, see section 3(n) of Pub. L. 112-29, set out as an Effective Date of 2011 Amendment; Savings Provisions note under section 100 of this title.

Amendment by section 20(j) of Pub. L. 112-29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced on or after that effective date, see section 20(7) of Pub. L. 112-29, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective Nov. 29, 2000, and applicable only to applications (including international applications designating the United States) filed on or after that date, see section 1000(a)(9) [title IV, § 4508] of Pub. L. 106-113, as amended, set out as a note under section 10 of this title.

§ 375. Patent issued on international application: Effect

(a) A patent may be issued by the Director based on an international application designating the United States, in accordance with the provisions of this title. Such patent shall have the force and effect of a patent issued on a national application filed under the provisions of chapter 11.

(b) Where due to an incorrect translation the scope of a patent granted on an international application designating the United States, which was not originally filed in the English language, exceeds the scope of the international application in its original language, a court of competent jurisdiction may retroactively limit the scope of the patent, by declaring it unenforceable to the extent that it exceeds the scope of the international application in its original language.

(Added Pub. L. 94-131, § 1, Nov. 14, 1975, 89 Stat. 689; amended Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, § 4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-582; Pub. L. 107-273, div. C, title III, § 13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906; Pub. L. 112-29, §§ 3(g)(5), 20(j), Sept. 16, 2011, 125 Stat. 288, 335.)

AMENDMENTS

2011—Subsec. (a). Pub. L. 112-29, § 20(j), struck out “of this title” after “102(e)” and after “11”.

Pub. L. 112-29, § 3(g)(5), which directed substitution of “Such” for “Subject to section 102(e) of this title, such”, was executed by making the substitution for “Subject to section 102(e), such”, to reflect the probable intent of Congress, because the words “of this title” did not appear after “section 102(e)” subsequent to amendment by Pub. L. 112-29, § 20(j). See note above and Effective Date of 2011 Amendment notes below.

2002—Subsec. (a). Pub. L. 107-273 made technical correction to directory language of Pub. L. 106-113. See 1999 Amendment note below.

1999—Subsec. (a). Pub. L. 106-113, as amended by Pub. L. 107-273, substituted “Director” for “Commissioner”.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 3(g)(5) of Pub. L. 112-29 effective upon the expiration of the 18-month period beginning on Sept. 16, 2011, and applicable to certain applications for patent and any patents issuing thereon, see section 3(n) of Pub. L. 112-29, set out as an Effective Date of 2011 Amendment; Savings Provisions note under section 100 of this title.

Amendment by section 20(j) of Pub. L. 112-29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to proceedings commenced

on or after that effective date, see section 20(7) of Pub. L. 112-29, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, § 4731] of Pub. L. 106-113, set out as a note under section 1 of this title.

§ 376. Fees

(a) The required payment of the international fee and the handling fee, which amounts are specified in the Regulations, shall be paid in United States currency. The Patent and Trademark Office shall charge a national fee as provided in section 41(a), and may also charge the following fees:

(1) A transmittal fee (see section 361(d)).

(2) A search fee (see section 361(d)).

(3) A supplemental search fee (to be paid when required).

(4) A preliminary examination fee and any additional fees (see section 362(b)).

(5) Such other fees as established by the Director.

(b) The amounts of fees specified in subsection (a) of this section, except the international fee and the handling fee, shall be prescribed by the Director. He may refund any sum paid by mistake or in excess of the fees so specified, or if required under the treaty and the Regulations. The Director may also refund any part of the search fee, the national fee, the preliminary examination fee, and any additional fees, where he determines such refund to be warranted.

(Added Pub. L. 94-131, § 1, Nov. 14, 1975, 89 Stat. 690; amended Pub. L. 98-622, title IV, §§ 402(g), 403(a), Nov. 8, 1984, 98 Stat. 3392; Pub. L. 99-616, § 8, Nov. 6, 1986, 100 Stat. 3486; Pub. L. 102-204, § 5(g)(1), Dec. 10, 1991, 105 Stat. 1640; Pub. L. 106-113, div. B, § 1000(a)(9) [title IV, § 4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-582; Pub. L. 107-273, div. C, title III, § 13206(a)(21), (b)(1)(B), Nov. 2, 2002, 116 Stat. 1905, 1906.)

AMENDMENTS

2002—Subsec. (a)(1) to (3). Pub. L. 107-273, § 13206(a)(21), substituted period for semicolon at end.

Subsecs. (a)(5), (b). Pub. L. 107-273, § 13206(b)(1)(B), made technical correction to directory language of Pub. L. 106-113. See 1999 Amendment note below.

1999—Subsecs. (a)(5), (b). Pub. L. 106-113, as amended by Pub. L. 107-273, § 13206(b)(1)(B), substituted “Director” for “Commissioner” wherever appearing.

1991—Subsec. (a). Pub. L. 102-204, § 5(g)(1)(A), in introductory provisions inserted “shall charge a national fee as provided in section 41(a), and” after “Office”, redesignated pars. (5) and (6) as (4) and (5), respectively, and struck out former par. (4), which read as follows: “A national fee (see section 371(c));”.

Subsec. (b). Pub. L. 102-204, § 5(g)(1)(B), substituted “the national fee, the preliminary examination fee,” for “the preliminary examination fee”.

1986—Subsec. (a). Pub. L. 99-616, § 8(a), in introductory provisions, inserted “and the handling fee” and substituted “amounts are” for “amount is”, added par. (5), and redesignated former par. (5) as (6).

Subsec. (b). Pub. L. 99-616, § 8(b), inserted “and the handling fee” and “the preliminary examination fee and any additional fees,”.

1984—Subsec. (a). Pub. L. 98-622, § 403(a), substituted “Patent and Trademark Office” for “Patent Office” in provision preceding par. (1).

Subsec. (a)(5), (6). Pub. L. 98-622, § 402(g), redesignated par. (6) as (5). Former par. (5), which read “A special fee (to be paid when required; see section 372(c))”, was struck out.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, § 4731] of Pub. L. 106-113, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-616 effective July 1, 1987, and applicable to all international applications pending before or after that date, see section 9 of Pub. L. 99-616, set out as a note under section 351 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 402(g) of Pub. L. 98-622 effective six months after Nov. 8, 1984, see section 406(b) of Pub. L. 98-622, set out as a note under section 3 of this title.

Amendment by section 403(a) of Pub. L. 98-622 effective Nov. 8, 1984, see section 406(a) of Pub. L. 98-622, set out as a note under section 351 of this title.

PART V—THE HAGUE AGREEMENT CONCERNING INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

Chap.	Sec.
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International Design Applications

CHAPTER 38—INTERNATIONAL DESIGN APPLICATIONS

Sec.	
381.	Definitions.
382.	Filing international design applications.
383.	International design application.
384.	Filing date.
385.	Effect of international design application.
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390.	Publication of international design application.

PRIOR PROVISIONS

A prior chapter 38, as added by Pub. L. 96-517, § 6(a), Dec. 12, 1980, 94 Stat. 3018, was originally editorially inserted after chapter 17 of this title because the probable intent of Congress was to designate the chapter as “18”, in view of the numerical designation of the sections contained in the chapter as sections 200 to 211 and in view of the subject matter of the chapter in relation to the subject matter of Part II of this title. Pub. L. 97-256, title I, § 101(5), Sept. 8, 1982, 96 Stat. 816, redesignated chapter 38 as chapter 18 and transferred chapter 18, as so redesignated, from the end of this part to the end of Part II. See 1982 Amendment note set out under the analysis of chapter 18 (§ 200 et seq.) of this title.

§ 381. Definitions

(a) IN GENERAL.—When used in this part, unless the context otherwise indicates—

(1) the term “treaty” means the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs adopted at Geneva on July 2, 1999;

(2) the term “regulations”—

(A) when capitalized, means the Common Regulations under the treaty; and

(B) when not capitalized, means the regulations established by the Director under this title;

(3) the terms “designation”, “designating”, and “designate” refer to a request that an international registration have effect in a Contracting Party to the treaty;

(4) the term “International Bureau” means the international intergovernmental organization that is recognized as the coordinating body under the treaty and the Regulations;

(5) the term “effective registration date” means the date of international registration determined by the International Bureau under the treaty;

(6) the term “international design application” means an application for international registration; and

(7) the term “international registration” means the international registration of an industrial design filed under the treaty.

(b) RULE OF CONSTRUCTION.—Terms and expressions not defined in this part are to be taken in the sense indicated by the treaty and the Regulations.

(Added Pub. L. 112-211, title I, § 101(a), Dec. 18, 2012, 126 Stat. 1527.)

EFFECTIVE DATE

Section effective on the later of the date that is 1 year after Dec. 18, 2012, or the date that the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs enters into force with respect to the United States, and applicable only to certain applications filed on and after that effective date and patents issuing thereon, see section 103 of Pub. L. 112-211, set out as an Effective Date of 2012 Amendment note under section 100 of this title.

§ 382. Filing international design applications

(a) IN GENERAL.—Any person who is a national of the United States, or has a domicile, a habitual residence, or a real and effective industrial or commercial establishment in the United States, may file an international design application by submitting to the Patent and Trademark Office an application in such form, together with such fees, as may be prescribed by the Director.

(b) REQUIRED ACTION.—The Patent and Trademark Office shall perform all acts connected with the discharge of its duties under the treaty, including the collection of international fees and transmittal thereof to the International Bureau. Subject to chapter 17, international design applications shall be forwarded by the Patent and Trademark Office to the International Bureau, upon payment of a transmittal fee.

(c) APPLICABILITY OF CHAPTER 16.—Except as otherwise provided in this chapter, the provisions of chapter 16 shall apply.

(d) APPLICATION FILED IN ANOTHER COUNTRY.—An international design application on an industrial design made in this country shall be considered to constitute the filing of an application in a foreign country within the meaning of chapter 17 if the international design application is filed—

(1) in a country other than the United States;

(2) at the International Bureau; or

(3) with an intergovernmental organization.

(Added Pub. L. 112-211, title I, § 101(a), Dec. 18, 2012, 126 Stat. 1528.)